

AMENDED IN SENATE MAY 28, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2973

**Introduced by Committee on Business and Professions (Correa
(Chair), Cedillo, Chavez, Corbett, Kelley, Koretz, Matthews,
and Nation)**

February 25, 2002

An act to amend Sections 146.5, 312, 7215.5, 8516, 8663, 8674, 9812.5, 9814, 9830.5, 9832.5, 9847.5, 9849, 9851, 9853, 9855.9, 9860, 9862.5, 9863, 9873, 19010.1, 19010.5, 19011, 19017, 19031, 19034.5, 19049, 19059.5, 19060.5, 19062, 19063, 19064, 19072.6, 19093, 19162, 19170, 19208, 19211, 19215.1, 19215.2, 19215.3, 19215.4, 19215.5, 19215.6, 19215.7, and 19215.8 of, and to repeal Sections 121.5, 327, 335, 336, 351, 1620, 3151, 4946, 7017, and 7218 of, the Business and Professions Code, *to amend Sections 1791 and 1794.4 of the Civil Code, to amend Sections 94050 and 94771 of the Education Code, to amend Sections 15376 and 15378 of the Government Code, to amend Sections 44031.5 and 57053.9 of the Health and Safety Code, to repeal Section 10115.5 of the Public Contract Code, and to amend and to amend* Section 71030 of the Public Resources Code, relating to regulation of businesses, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2973, as amended, Committee on Business and Professions. Regulation of businesses.

(1) *Existing law allows, under specified circumstances, the violation of certain provisions requiring a license or other authorization to*

engage in a business or profession to be charged as an infraction. Under existing law, these provisions will be repealed on January 1, 2003.

This bill would extend the operation of these provisions to January 1, 2008.

(2) Existing law requires the Director of Consumer Affairs to report to the Governor and Legislature on specified matters and to disseminate certain information to the public.

This bill would recast provisions pertaining to these reporting responsibilities and would delete the director's duty to disseminate particular information to the public.

~~(2)~~

(3) Existing law requires the Dental Board of California, the Acupuncture Board, the Contractors' State License Board, and the State Board of Guide Dogs to report specified information to the Governor and Legislature. Existing law also requires entities contracting on behalf of the state to report to the Governor and the Legislature certain information concerning the level of participation of minority, women, and disabled veteran business enterprises in those contracts.

This bill would delete these particular reporting requirements.

~~(3)~~

(4) Existing law provides for the regulation and licensure by the Structural Pest Control Board of persons engaged in the pest control business. Under existing law, a licensee reinspecting items noted in an original inspection report is required to identify the original report by both date and stamp numbers. Existing law also authorizes the board to levy a fine of \$500 for specified violations committed by a licensee, deposited into the Education and Enforcement Account in the Structural Pest Control Education and Enforcement Fund, a continuously appropriated fund.

This bill would increase the amount of this fine to \$1,000 and would delete the requirement of including in the reinspection the stamp numbers of the original report. Because the bill would increase the fine revenue deposited into a continuously appropriated fund, it would make an appropriation.

~~(4)~~

(5) Existing law, the Electronic and Appliance Repair Dealers Registration Law, provides for the regulation by the Director of Consumer Affairs of persons engaged in the business of repairing, servicing, or maintaining electronic and other types of household appliances and ~~authorizes the director to adopt regulations in~~



~~conjunction with the enforcement and administration of this law for for~~
their registration with the Bureau of Electronic and Appliance Repair, which is within the department. Under existing law, certain provisions pertaining to the regulation of this business will be repealed on January 1, 2003. The law additionally provides for the regulation by the director and registration with the bureau of service contractors, as defined. Under existing law, a violation of the law's provisions is punishable as a misdemeanor offense, and a violation of specified provisions of the law pertaining to service contractors is additionally subject to the imposition of an administrative fine that, upon collection, is deposited into the Electronic and Appliance Repair Fund, which is continuously appropriated. Under existing law, the provisions of the law regulating service contractors will be repealed on January 1, 2003.

~~This bill would make nonsubstantive changes to this provision.~~

~~(5)~~

This bill would extend the operation of these provisions to January 1, 2008. Because the bill would extend the operation of criminal penalty provisions pertaining to service contractors, it would impose a state-mandated local program. Because the bill would also extend, with respect to those persons, the operation of administrative fines which are paid into a continuously appropriated fund, it would also make an appropriation.

(6) Existing law, the Home Furnishing and Thermal Insulation Act, regulates and provides for the licensure of persons engaged in various businesses associated with home furnishings, including sanitizing.

This bill would exempt persons holding specified licenses issued under this law from additional licensure as a sanitizer and would make nonsubstantive changes to various other provisions of this law.

~~(6)~~

(7) Existing law, the Private Postsecondary and Vocational Education Reform Act of 1989, creates within the Department of Consumer Affairs, the Bureau for Private Postsecondary and Vocational Education, which succeeded to the rights and functions of the former Council for Private Postsecondary and Vocational Education. Under existing law, the Director of Consumer Affairs is vested with the responsibility of administering and enforcing the act and is authorized to assign those duties to a program administrator.

This bill would delete obsolete references to the Council for Private Postsecondary and Vocational Education. The bill would authorize the director to assign his or her duties under the act to a bureau chief.

(8) Existing law requires specified state agencies to adopt regulations regarding their procedures for considering and issuing permits to engage in a particular activity or act and specifies that these regulations be proposed during certain timeframes occurring in 1983 and 1984.

This bill would delete these obsolete timeframe provisions.

(7)

(9) Existing law establishes the Motor Vehicle Inspection program, enforced by the Bureau of Automotive Repair in the Department of Consumer Affairs. Under existing law, this program includes the establishment and operation of smog check stations, and the department is required to establish training requirements for smog check technicians. Existing law requires an institution administering these training or retraining courses to issue a certificate that is valid for one year to each person who successfully completes the course.

This bill would extend the term during which the certificate is valid to 2 years.

(10) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 121.5 of the Business and Professions*
2 *Code, as added by Chapter 306 of the Statutes of 2001, is repealed.*

3 ~~121.5. Except as otherwise provided in this code, no~~
4 ~~delinquency fee or accrued and unpaid renewal fees shall be~~
5 ~~assessed upon the renewal of an expired license or registration that~~
6 ~~has lawfully been designated as inactive or retired.~~

7 SEC. 2. *Section 146.5 of the Business and Professions Code*
8 *is amended to read:*

9 146.5. (a) Notwithstanding any other provision of law, a
10 violation of any code section listed in subdivision (c) is an
11 infraction subject to the procedures described in Sections 19.6 and
12 19.7 of the Penal Code ~~when~~ *if* either of the following occur:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor.

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

(1) Section 2630.

(2) Section 2903.

(3) Sections 3760 and 3761.

(4) Section 4825.

(5) Section 4980.

(6) Section 4996.

(7) Section 5536.

(8) Section 6704.

(9) Section 6980.10.

(10) Section 7317.

(11) Section 7502 or 7592.

(12) Section 7617 or 7641.

(13) Subdivision (a) of Section 7872.

(14) Section 8016.

(15) Section 8505.

(16) Section 8725.

(17) Section 9681.

(18) Section 9840.

(19) Section 9855.1.

(20) ~~Subdivision (c) of Section 9891.24.~~

~~(21) Section 19049.~~

(d) Notwithstanding any other provision of law, a violation of any of the sections listed in subdivision (c), which is an infraction,

1 is punishable by a fine of not less than two hundred fifty dollars
2 (\$250) and not more than one thousand dollars (\$1,000). No
3 portion of the minimum fine may be suspended by the court unless
4 as a condition of that suspension, the defendant is required to
5 submit proof of a current valid license, registration, or certificate
6 for the profession or vocation that was the basis for his or her
7 conviction.

8 (e) This section shall remain in effect only until January 1,
9 2003 2008, and as of that date is repealed, unless a later enacted
10 statute, that is enacted before January 1, 2003 2008, deletes or
11 extends that date.

12 *SEC. 3.* Section 312 of the Business and Professions Code is
13 amended to read:

14 312. The director shall submit to the Governor and the
15 Legislature on or before January 1, 2003, and annually thereafter,
16 a report of programmatic and statistical information regarding the
17 activities of the department and its constituent entities. The report
18 shall include information concerning the director's activities
19 pursuant to Section 326, including the number and general patterns
20 of consumer complaints and the action taken on those complaints.

21 ~~*SEC. 2.*~~

22 *SEC. 4.* Section 327 of the Business and Professions Code is
23 repealed.

24 ~~*SEC. 3.*~~

25 *SEC. 5.* Section 335 of the Business and Professions Code is
26 repealed.

27 ~~*SEC. 4.*~~

28 *SEC. 6.* Section 336 of the Business and Professions Code is
29 repealed.

30 ~~*SEC. 5.*~~

31 *SEC. 7.* Section 351 of the Business and Professions Code is
32 repealed.

33 ~~*SEC. 6.*~~

34 *SEC. 8.* Section 1620 of the Business and Professions Code is
35 repealed.

36 ~~*SEC. 7.*~~

37 *SEC. 9.* Section 3151 of the Business and Professions Code is
38 repealed.

39 ~~*SEC. 8.*~~

1 *SEC. 10.* Section 4946 of the Business and Professions Code
2 is repealed.

3 ~~*SEC. 9.*~~

4 *SEC. 11.* Section 7017 of the Business and Professions Code
5 is repealed.

6 ~~*SEC. 10.*~~

7 *SEC. 12.* Section 7215.5 of the Business and Professions
8 Code is amended to read:

9 7215.5. During the first year following the successful training
10 of each person-dog unit, and release from a guide dog training
11 school of the trained person supplied with a guide dog, the school
12 may retain title to the trained dog. During this probationary year,
13 the school may enter into a contractual agreement with the user of
14 the dog describing the conditions under which the user may
15 maintain the status of legal custodian of the dog. During the
16 probationary year, the school, acting in what it deems to be the best
17 interest of the user, the dog, or the public, may temporarily or
18 permanently resume possession of the dog.

19 Within 15 days after the end of each calendar year, each licensed
20 school shall report to the board the following:

21 (1) The number of dog ownership titles transferred to dog users
22 pursuant to this section during the calendar year.

23 (2) The number of title recoveries and repossessions made by
24 the school pursuant to this section during the calendar year.

25 (3) The number, type, and amount of charges assessed for
26 followup training, instruction, veterinary, or boarding services,
27 pursuant to this section, which make a distinction between users
28 who have acquired title to their dogs and users who have not
29 acquired title.

30 (4) The views of the governing entity of the school as to any
31 problems or concerns relative to compliance with the provisions
32 of this section, along with recommendations for appropriate
33 legislative or administrative changes commensurate with the
34 purposes of this section.

35 Immediately upon completion of the first year following the
36 successful training referred to above, if the training school and the
37 dog user are mutually satisfied with the operation of the
38 person-dog unit, title to the dog shall be transferred to the blind
39 user if the user so desires. Transfer of title shall be evidenced by
40 a transfer of title agreement executed by both parties thereto. The

1 school may retain an option to recover title and possession to the
2 guide dog subject to conditions described in the transfer of title
3 agreement. These conditions may include, but are not limited to,
4 the following:

5 (1) If in the school's opinion, the guide dog is being misused or
6 neglected or mistreated by its blind user.

7 (2) If the blind person to whom the dog was furnished has
8 ceased to use the dog as a guide and the dog is not too old to be
9 retrained as a guide for another blind person.

10 (3) If, in the school's opinion, the dog is no longer a safe guide
11 and the user refuses to cease using the dog as a guide after being
12 requested by the school to cease ~~such~~ *this* use.

13 The guide dog school shall make no distinction as to the quality
14 or extent of followup or supportive services available to its blind
15 graduates based on whether they elect to acquire title to their dogs
16 or allow title to remain with the school after the probationary year.
17 The school may, however, make this distinction when assessing
18 reasonable and appropriate charges for followup training,
19 instruction, veterinary, or boarding services.

20 No applicant for admission to a guide dog training school, nor
21 any enrolled student, shall be required by the school prior to
22 completion of his or her training to sign any instrument or to
23 announce his or her intention regarding transfer of title of the dog
24 from the school to himself or herself upon completion of the
25 training and probation period.

26 ~~SEC. 11.~~

27 *SEC. 13.* Section 7218 of the Business and Professions Code
28 is repealed.

29 ~~SEC. 12.~~

30 *SEC. 14.* Section 8516 of the Business and Professions Code
31 is amended to read:

32 8516. (a) This section, and Section 8519, apply only to wood
33 destroying pests or organisms.

34 (b) No registered company or licensee shall commence work
35 on a contract, or sign, issue, or deliver any documents expressing
36 an opinion or statement relating to the absence or presence of wood
37 destroying pests or organisms until an inspection has been made
38 by a licensed Branch 3 field representative or operator. The address
39 of each property inspected or upon which work is completed shall
40 be reported on a form prescribed by the board and shall be filed

1 with the board no later than 10 business days after the
2 commencement of an inspection or upon completed work.

3 Every property inspected pursuant to this subdivision or Section
4 8518 shall be assessed a filing fee pursuant to Section 8674.

5 Failure of a registered company to report and file with the board
6 the address of any property inspected or work completed pursuant
7 to Section 8518 or this section is grounds for disciplinary action
8 and shall subject the registered company to a fine of not more than
9 two thousand five hundred dollars (\$2,500).

10 A written inspection report conforming to this section and a
11 form approved by the board shall be prepared and delivered to the
12 person requesting the inspection or to the person's designated
13 agent within 10 business days of the inspection, except that an
14 inspection report prepared for use by an attorney for litigation
15 purposes is not required to be reported to the board. The report
16 shall be delivered before work is commenced on any property. The
17 registered company shall retain for three years all original
18 inspection reports, field notes, and activity forms.

19 Reports shall be made available for inspection and reproduction
20 to the executive officer of the board or his or her duly authorized
21 representative during business hours. Original inspection reports
22 or copies thereof shall be submitted to the board upon request
23 within two business days. The following shall be set forth in the
24 report:

25 (1) The date of the inspection and the name of the licensed field
26 representative or operator making the inspection.

27 (2) The name and address of the person or firm ordering the
28 report.

29 (3) The name and address of any person who is a party in
30 interest.

31 (4) The address or location of the property.

32 (5) A general description of the building or premises inspected.

33 (6) A foundation diagram or sketch of the structure or
34 structures or portions of the structure or structures inspected,
35 indicating thereon the approximate location of any infested or
36 infected areas evident, and the parts of the structure where
37 conditions that would ordinarily subject those parts to attack by
38 wood destroying pests or organisms exist.

39 (7) Information regarding the substructure, foundation walls
40 and footings, porches, patios and steps, air vents, abutments, attic

1 spaces, roof framing that includes the eaves, rafters, fascias,
2 exposed timbers, exposed sheathing, ceiling joists, and attic walls,
3 or other parts subject to attack by wood destroying pests or
4 organisms. Conditions usually deemed likely to lead to infestation
5 or infection, such as earth-wood contacts, excessive cellulose
6 debris, faulty grade levels, excessive moisture conditions,
7 evidence of roof leaks, and insufficient ventilation are to be
8 reported.

9 (8) One of the following statements, as appropriate, printed in
10 bold type:

11 (A) The exterior surface of the roof was not inspected. If you
12 want the water tightness of the roof determined, you should
13 contact a roofing contractor who is licensed by the Contractors'
14 State License Board.

15 (B) The exterior surface of the roof was inspected to determine
16 whether or not wood destroying pests or organisms are present.

17 (9) Indication or description of any areas that are inaccessible
18 or not inspected with recommendation for further inspection if
19 practicable. If, after the report has been made in compliance with
20 this section, authority is given later to open inaccessible areas, a
21 supplemental report on conditions in these areas shall be made.

22 (10) Recommendations for corrective measures.

23 (11) Information regarding the pesticide or pesticides to be
24 used for their control as set forth in subdivision (a) of Section
25 8538.

26 (12) The inspection report shall clearly disclose that if
27 requested by the person ordering the original report, a reinspection
28 of the structure will be performed if an estimate or bid for making
29 repairs was given with the original inspection report, or thereafter.

30 (13) The inspection report shall contain the following
31 statement, printed in boldface type:

32 "NOTICE: Reports on this structure prepared by various
33 registered companies should list the same findings (i.e. termite
34 infestations, termite damage, fungus damage, etc.). However,
35 recommendations to correct these findings may vary from
36 company to company. You have a right to seek a second opinion
37 from another company."

38 An estimate or bid for repairs shall be given separately
39 allocating the costs to perform each and every recommendation for
40 corrective measures as specified in subdivision (c) with the

1 original inspection report if the person who ordered the original
2 inspection report so requests, and if the registered company is
3 regularly in the business of performing corrective measures.

4 If no estimate or bid was given with the original inspection
5 report, or thereafter, then the registered company shall not be
6 required to perform a reinspection.

7 A reinspection shall be an inspection of those items previously
8 listed on an original report to determine if the recommendations
9 have been completed. Each reinspection shall be reported on an
10 original inspection report form and shall be labeled
11 “Reinspection” in capital letters by rubber stamp or typewritten.
12 Each reinspection shall also identify the original report by date .

13 After four months from an original inspection, all inspections
14 shall be original inspections and not reinspections.

15 Any reinspection shall be performed for not more than the price
16 of the registered company’s original inspection price and shall be
17 completed within 10 working days after a reinspection has been
18 ordered.

19 (c) At the time a report is ordered, the registered company or
20 licensee shall inform the person or entity ordering the report, that
21 a separated report is available pursuant to this subdivision. If a
22 separated report is requested at the time the inspection report is
23 ordered, the registered company or licensee shall separately
24 identify on the report each recommendation for corrective
25 measures as follows:

26 (1) The infestation or infection that is evident.

27 (2) The conditions that are present that are deemed likely to
28 lead to infestation or infection.

29 If a registered company or licensee fails to inform as required
30 by this subdivision and a dispute arises, or if any other dispute
31 arises as to whether this subdivision has been complied with, a
32 separated report shall be provided within 24 hours of the request
33 but, in no event, later than the next business day, and at no
34 additional cost.

35 (d) When a corrective condition is identified, either as
36 paragraph (1) or (2) of subdivision (c), and the responsible party,
37 as negotiated between the buyer and the seller, chooses not to
38 correct those conditions, the registered company or licensee shall
39 not be liable for damages resulting from a failure to correct those
40 conditions or subject to any disciplinary action by the board.

1 Nothing in this subdivision, however, shall relieve a registered
2 company or a licensee of any liability resulting from negligence,
3 fraud, dishonest dealing, other violations pursuant to this chapter,
4 or contractual obligations between the registered company or
5 licensee and the responsible parties.

6 (e) The inspection report form prescribed by the board shall
7 separately identify the infestation or infection that is evident and
8 the conditions that are present that are deemed likely to lead to
9 infestation or infection. If a separated form is requested, the form
10 shall explain the infestation or infection that is evident and the
11 conditions that are present that are deemed likely to lead to
12 infestation or infection and the difference between those
13 conditions. In no event, however, shall conditions deemed likely
14 to lead to infestation or infection be characterized as actual
15 “defects” or as actual “active” infestations or infections or in
16 need of correction as a precondition to issuing a certification
17 pursuant to Section 8519.

18 (f) The report and any contract entered into shall also state
19 specifically when any guarantee for the work is made, and if so,
20 the specific terms of the guarantee and the period of time for which
21 the guarantee shall be in effect.

22 (g) Control service is defined as the regular reinspection of a
23 property after a report has been made in compliance with this
24 section and any corrections as have been agreed upon have been
25 completed. Under a control service agreement a registered
26 company shall refer to the original report and contract in a manner
27 as to identify them clearly, and the report shall be assumed to be
28 a true report of conditions as originally issued, except it may be
29 modified after a control service inspection. A registered company
30 is not required to issue a report as outlined in paragraphs (1) to (11),
31 inclusive, of subdivision (b) after each control service inspection.
32 If after control service inspection, no modification of the original
33 report is made in writing, then it will be assumed that conditions
34 are as originally reported. A control service contract shall state
35 specifically the particular wood destroying pests or organisms and
36 the portions of the buildings or structures covered by the contract.

37 (h) A registered company or licensee may enter into and
38 maintain a control service agreement provided the following
39 requirements are met:

1 (1) The control service agreement shall be in writing, signed by
2 both parties, and shall specifically include the following:

3 (A) The wood destroying pests and organisms that could infest
4 and infect the structure.

5 (B) The wood destroying pests and organisms covered by the
6 control service agreement. Any wood destroying pest or organism
7 that is not covered must be specifically listed.

8 (C) The type and manner of treatment to be used to correct the
9 infestations or infections.

10 (D) The structures or buildings, or portions thereof, covered by
11 the agreement, including a statement specifying whether the
12 coverage for purposes of periodic inspections is limited or full.
13 Any exclusions from those described in the original report must be
14 specifically listed.

15 (E) A reference to the original inspection report and agreement.

16 (F) The frequency of the inspections to be provided, the fee to
17 be charged for each renewal, and the duration of the agreement.

18 (G) Whether the fee includes structural repairs.

19 (H) If the services provided are guaranteed, and, if so, the terms
20 of the guarantee.

21 (I) A statement that all corrections of infestations or infections
22 covered by the control service agreement shall be completed
23 within six months of discovery, unless otherwise agreed to in
24 writing by both parties.

25 (2) Inspections made pursuant to a control service agreement
26 shall be conducted by a Branch 3 licensee. Section 8506.1 does not
27 modify this provision.

28 (3) A full inspection of the property covered by the control
29 service agreement shall be conducted and a report filed pursuant
30 to subdivision (b) at least once every three years from the date that
31 the agreement was entered into, unless the consumer cancels the
32 contract within three years from the date the agreement was
33 entered into.

34 (4) A written report shall be required for the correction of any
35 infestation or infection unless all of the following conditions are
36 met:

37 (A) The infestation or infection has been previously reported.

38 (B) The infestation or infection is covered by the control
39 service agreement.

1 (C) There is no additional charge for correcting the infestation
2 or infection.

3 (D) Correction of the infestation or infection takes place within
4 45 days of its discovery.

5 (E) Correction of the infestation or infection does not include
6 fumigation.

7 (5) All notice requirements pursuant to Section 8538 shall
8 apply to all pesticide treatments conducted under control service
9 agreements.

10 (6) For purposes of this section, “control service agreement”
11 means any agreement, including extended warranties, to have a
12 licensee conduct over a period of time regular inspections and
13 other activities related to the control or eradication of wood
14 destroying pests and organisms.

15 (i) All work recommended by a registered company, where an
16 estimate or bid for making repairs was given with the original
17 inspection report, or thereafter, shall be recorded on this report or
18 a separate work agreement and shall specify a price for each
19 recommendation. This information shall be provided to the person
20 requesting the inspection, and shall be retained by the registered
21 company with the inspection report copy for three years.

22 ~~SEC. 13.~~

23 *SEC. 15.* Section 8663 of the Business and Professions Code
24 is amended to read:

25 8663. (a) This section only applies to work conducted under
26 a Branch 1 license.

27 (b) The board or county agricultural commissioners, when
28 acting pursuant to Section 8616.4, may levy a fine of up to one
29 thousand dollars (\$1,000) against a registered company acting as
30 a prime contractor for any major violation committed by any
31 licensee with whom the prime contractor has subcontracted if,
32 before that violation occurred, the prime contractor had been
33 notified by certified mail, return receipt requested, of more than
34 two major violations committed by the subcontractor within 12
35 consecutive months.

36 Fines collected pursuant to this section shall be paid to the
37 Education and Enforcement Account in the Structural Pest
38 Control Education and Enforcement Fund.

39 (c) For purposes of this section, “major violation” means a
40 violation of any of the following provisions of this code or of the

1 California Code of Regulations that poses a serious hazard to
2 humans:

3 (1) A violation of subdivision (a) or (b) of Section 1970.4 of
4 Title 16 of, or Section 6454 of Title 3 of, the California Code of
5 Regulations, or a violation of Section 8505.5.

6 (2) Any violation of the structural pest control law that results
7 in a serious injury to any person.

8 (3) A violation of Section 8505.2 or 8505.3, relating to direct
9 and personal supervision.

10 (4) A violation of Section 8505.7, relating to vacating and
11 securing structures.

12 (5) A violation of subdivision (a) of Section 6780 of Title 3 of
13 the California Code of Regulations.

14 (6) A violation of Section 6454 of Title 3 of the California Code
15 of Regulations.

16 (7) A violation of Section 8505.12, relating to warning agents.

17 (8) A violation of Section 8505.9 or 8505.10, relating to
18 warning signs.

19 (d) A copy of a notice of violation issued for any violation
20 committed by a subcontractor shall be sent by certified mail to the
21 prime contractor by the issuing authority within 15 days from the
22 date the violation was committed.

23 (e) Notwithstanding subdivision (b), a prime contractor may be
24 fined for a subcontractor's first violation for failing to have a
25 signed factsheet on the premises being treated, or if the
26 subcontractor fails to provide advance notice of a treatment to the
27 occupants of the premises being treated.

28 ~~SEC. 14.~~

29 *SEC. 16.* Section 8674 of the Business and Professions Code
30 is amended to read:

31 8674. The fees prescribed by this chapter are the following:

32 (a) A duplicate license fee of not more than two dollars (\$2).

33 (b) A fee for filing a change of name of a licensee of not more
34 than two dollars (\$2).

35 (c) An operator's examination fee of not more than twenty-five
36 dollars (\$25).

37 (d) An operator's license fee of not more than one hundred fifty
38 dollars (\$150).

39 (e) An operator's license renewal fee of not more than one
40 hundred fifty dollars (\$150).

- 1 (f) A company registration fee of not more than one hundred
2 twenty dollars (\$120).
- 3 (g) A branch office registration fee of not more than sixty
4 dollars (\$60).
- 5 (h) A field representative's examination fee of not more than
6 fifteen dollars (\$15).
- 7 (i) A field representative's license fee of not more than
8 forty-five dollars (\$45).
- 9 (j) A field representative's license renewal fee of not more than
10 forty-five dollars (\$45).
- 11 (k) An applicator's examination fee of not more than fifteen
12 dollars (\$15).
- 13 (l) An applicator's license fee of not more than fifty dollars
14 (\$50).
- 15 (m) An applicator's license renewal fee of not more than fifty
16 dollars (\$50).
- 17 (n) An activity form fee, per property address, of not more than
18 three dollars (\$3).
- 19 (o) A fee for certifying a copy of an activity form of not more
20 than three dollars (\$3).
- 21 (p) A fee for filing a change of a registered company's name,
22 principal office address, or branch office address, qualifying
23 manager, or the names of a registered company's officers, or bond
24 or insurance of not more than twenty-five dollars (\$25) for each
25 change.
- 26 (q) A fee for approval of continuing education providers of not
27 more than fifty dollars (\$50).
- 28 (r) A pesticide use report filing fee of not more than five dollars
29 (\$5) for each pesticide use report or combination of use reports
30 representing a registered structural pest control company's total
31 county pesticide use for the month.
- 32 (s) A fee for approval of continuing education courses of not
33 more than twenty-five dollars (\$25).
- 34 (t) (1) Any person who pays a fee pursuant to subdivision (r)
35 shall, in addition, pay a fee of two dollars (\$2) for each pesticide
36 use stamp purchased from the board. Notwithstanding any other
37 provision of law, the fee established pursuant to this subdivision
38 shall be deposited with a bank or other depository approved by the
39 Department of Finance and designated by the Research Advisory
40 Panel or into the Structural Pest Control Research Fund that is

hereby created and continuously appropriated to be used only for structural pest control research. If the Research Advisory Panel designates that the fees be deposited in an account other than the Structural Pest Control Research Fund, any moneys in the fund shall be transferred to the designated account.

(2) Prior to the deposit of any funds, the depository shall enter into an agreement with the Department of Consumer Affairs that includes, but is not limited to, all of the following requirements:

(A) The depository shall serve as custodian for the safekeeping of the funds.

(B) Funds deposited in the designated account shall be encumbered solely for the exclusive purpose of implementing and continuing the program for which they were collected.

(C) Funds deposited in the designated account shall be subject to an audit at least once every two years by an auditor selected by the Director of Consumer Affairs. A copy of the audit shall be provided to the director within 30 days of completion of the audit.

(D) The Department of Consumer Affairs shall be reimbursed for all expenses it incurs that are reasonably related to implementing and continuing the program for which the funds were collected in accordance with the agreement.

(E) A reserve in an amount sufficient to pay for costs arising from unanticipated occurrences associated with administration of the program shall be maintained in the designated account.

(3) A charge for administrative expenses of the board in an amount not to exceed 5 percent of the amount collected and deposited in the Structural Pest Control Research Fund may be assessed against the fund. The charge shall be limited to expenses directly related to the administration of the fund.

(4) The board shall, by regulation, establish a five-member research advisory panel including, but not limited to, representatives from each of the following: (A) the Structural Pest Control Board, (B) the structural pest control industry, (C) the Department of Pesticide Regulation, and (D) the University of California. The panel, or other entity designated by the board, shall solicit on behalf of the board all requests for proposals and present to the panel all proposals that meet the criteria established by the panel. The panel shall review the proposals and recommend to the board which proposals to accept. The recommendations shall be accepted upon a two-thirds vote of the board. The board shall

1 direct the panel, or other entity designated by the board, to prepare
2 and issue the research contracts and authorize the transfer of funds
3 from the Structural Pest Control Research Fund to the applicants
4 whose proposals were accepted by the board.

5 (5) A charge for requests for proposals, contracts, and
6 monitoring of contracted research shall not exceed 5 percent of the
7 research funds available each year and shall be paid from the
8 Structural Pest Control Research Fund.

9 ~~SEC. 15.~~

10 *SEC. 17. Section 9812.5 of the Business and Professions Code*
11 *is amended to read:*

12 9812.5. The director shall gather evidence of violations of this
13 chapter and of any regulation established hereunder by any service
14 contractor, whether registered or not, and by any employee,
15 partner, officer, or member of any service contractor. The director
16 shall, on his or her own initiative, conduct spot check
17 investigations of service contractors throughout the state on a
18 continuous basis. This section shall remain in effect only until
19 January 1, ~~2003~~ 2008, and as of that date is repealed, unless a later
20 enacted statute, that is enacted before January 1, ~~2003~~ 2008,
21 deletes or extends that date.

22 *SEC. 18. Section 9814 of the Business and Professions Code*
23 *is amended to read:*

24 9814. The director may establish and enforce regulations as
25 may be reasonable for the conduct of service dealers and for the
26 general enforcement of the various provisions of this chapter in the
27 protection of the public. The director may, by regulation, define
28 the scope of the terms described in subdivisions (g) to (q),
29 inclusive, of Section 9801 to include items of the same general
30 nature or class as those enumerated therein. The director shall
31 distribute to each registered service dealer copies of this chapter
32 and of the regulations thereunder. These regulations shall be
33 adopted, amended, or repealed in accordance with the provisions
34 of Chapter 3.5 (commencing with Section 11340) of Part 1 of
35 Division 3 of Title 2 of the Government Code.

36 ~~SEC. 16.~~

37 *SEC. 19. Section 9830.5 of the Business and Professions Code*
38 *is amended to read:*

39 9830.5. Each service contractor shall pay the fee required by
40 this chapter for each place of business operated by him or her in

1 this state and shall register with the bureau upon forms prescribed
 2 by the director. The forms shall contain sufficient information to
 3 identify the service contractor, including name, address, retail
 4 seller's permit number, if a permit is required under the Sales and
 5 Use Tax Law (Part 1 (commencing with Section 6001) of Division
 6 2 of the Revenue and Taxation Code), a copy of the certificate of
 7 qualification as filed with the Secretary of State if the service
 8 contractor is a foreign corporation, and other identifying data to be
 9 prescribed by the bureau. If the business is to be carried on under
 10 a fictitious name, that fictitious name shall be stated. If the service
 11 contractor is a partnership, identifying data shall be stated for each
 12 partner. If the service contractor is a private company that does not
 13 file an annual report on Form 10-K with the Securities and
 14 Exchange Commission, data shall be included for each of the
 15 officers and directors of the company as well as for the individual
 16 in charge of each place of the service contractor's business in the
 17 State of California, subject to any regulations the director may
 18 adopt. If the service contractor is a publicly held corporation or a
 19 private company that files an annual report on Form 10-K with the
 20 Securities and Exchange Commission, it shall be sufficient for
 21 purposes of providing data for each of the officers and directors of
 22 the corporation or company to file with the director the most recent
 23 annual report on Form 10-K that is filed with the Securities and
 24 Exchange Commission.

25 A service contractor who does not operate a place of business
 26 in this state but who sells, issues, or administers service contracts
 27 in this state, shall hold a valid registration issued by the bureau and
 28 shall pay the registration fee required by this chapter as if he or she
 29 had a place of business in this state.

30 This section shall remain in effect only until January 1, ~~2003~~
 31 2008, and as of that date is repealed, unless a later enacted statute,
 32 that is enacted before January 1, ~~2003~~ 2008, deletes or extends that
 33 date.

34 *SEC. 20. Section 9832.5 of the Business and Professions Code*
 35 *is amended to read:*

36 9832.5. (a) Registrations issued under this chapter shall
 37 expire no more than 12 months after the issue date. The expiration
 38 date of registrations shall be set by the director in a manner to best
 39 distribute renewal procedures throughout the year.

1 (b) To renew an unexpired registration, the service contractor
2 shall, on or before the expiration date of the registration, apply for
3 renewal on a form prescribed by the director, and pay the renewal
4 fee prescribed by this chapter.

5 (c) To renew an expired registration, the service contractor
6 shall apply for renewal on a form prescribed by the director, pay
7 the renewal fee in effect on the last regular renewal date, and pay
8 all accrued and unpaid delinquency and renewal fees.

9 (d) Renewal is effective on the date that the application is filed,
10 the renewal fee is paid, and all delinquency fees are paid.

11 (e) For purposes of implementing the distribution of the
12 renewal of registrations throughout the year, the director may
13 extend, by not more than six months, the date fixed by law for
14 renewal of a registration, except that, in that event, any renewal fee
15 that may be involved shall be prorated in such a manner that no
16 person shall be required to pay a greater or lesser fee than would
17 have been required had the change in renewal dates not occurred.

18 (f) This section shall remain in effect only until January 1, ~~2003~~
19 2008, and as of that date is repealed, unless a later enacted statute,
20 which is enacted before January 1, ~~2003~~ 2008, deletes or extends
21 that date.

22 *SEC. 21. Section 9847.5 of the Business and Professions Code*
23 *is amended to read:*

24 9847.5. Each service contractor shall maintain those records
25 as are required by the regulations adopted to carry out the
26 provisions of this chapter for a period of at least three years. These
27 records shall be open for reasonable inspection by the director or
28 other law enforcement officials.

29 This section shall remain in effect only until January 1, ~~2003~~
30 2008, and as of that date is repealed, unless a later enacted statute,
31 that is enacted before January 1, ~~2003~~ 2008, deletes or extends that
32 date.

33 *SEC. 22. Section 9849 of the Business and Professions Code,*
34 *as amended by Section 41 of Chapter 401 of the Statutes of 1997,*
35 *is amended to read:*

36 9849. The expiration of a valid registration shall not deprive
37 the director of jurisdiction to proceed with any investigation or
38 hearing on a cease and desist order against a service dealer or to
39 render a decision invalidating a registration temporarily or
40 permanently.

1 This section shall become operative on January 1, ~~2003~~ 2008.

2 SEC. 23. *Section 9849 of the Business and Professions Code,*
3 *as amended by Section 40 of Chapter 401 of the Statutes of 1997,*
4 *is amended to read:*

5 9849. The expiration of a valid registration shall not deprive
6 the director of jurisdiction to proceed with any investigation or
7 hearing on a cease and desist order against a service dealer or
8 service contractor or to render a decision invalidating a
9 registration temporarily or permanently.

10 This section shall remain in effect only until January 1, ~~2003~~
11 2008, and as of that date is repealed, unless a later enacted statute,
12 that is enacted before January 1, ~~2003~~ 2008, deletes or extends that
13 date.

14 SEC. 24. *Section 9851 of the Business and Professions Code,*
15 *as amended by Section 43 of Chapter 401 of the Statutes of 1997,*
16 *is amended to read:*

17 9851. The superior court in and for the county wherein any
18 person carries on, or attempts to carry on, business as a service
19 dealer in violation of the provisions of this chapter, or any
20 regulation thereunder, shall, on application of the director, issue an
21 injunction or other appropriate order restraining that conduct.

22 The proceedings under this section shall be governed by
23 Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of
24 the Code of Civil Procedure, except that the director shall not be
25 required to allege facts necessary to show or tending to show lack
26 of an adequate remedy at law or irreparable injury.

27 This section shall become operative on January 1, ~~2003~~ 2008.

28 SEC. 25. *Section 9851 of the Business and Professions Code,*
29 *as amended by Section 42 of Chapter 401 of the Statutes of 1997,*
30 *is amended to read:*

31 9851. The superior court in and for the county wherein any
32 person carries on, or attempts to carry on, business as a service
33 dealer or service contractor in violation of the provisions of this
34 chapter, or any regulation thereunder, shall, on application of the
35 director, issue an injunction or other appropriate order restraining
36 that conduct.

37 The proceedings under this section shall be governed by
38 Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of
39 the Code of Civil Procedure, except that the director shall not be

1 required to allege facts necessary to show or tending to show lack
2 of an adequate remedy at law or irreparable injury.

3 This section shall remain in effect only until January 1, ~~2003~~
4 2008, and as of that date is repealed, unless a later enacted statute,
5 that is enacted before January 1, ~~2003~~ 2008, deletes or extends that
6 date.

7 *SEC. 26. Section 9853 of the Business and Professions Code,*
8 *as amended by Section 45 of Chapter 401 of the Statutes of 1997,*
9 *is amended to read:*

10 9853. A plea or verdict of guilty or a conviction following a
11 plea of nolo contendere made to a charge substantially related to
12 the qualifications, functions, and duties of a service dealer is
13 deemed to be a conviction within the meaning of this article. The
14 director may order the registration temporarily or permanently
15 invalidated, or may decline to issue a registration, when the time
16 for appeal has elapsed, or the judgment of conviction has been
17 affirmed on appeal or when an order granting probation is made
18 suspending the imposition of sentence, irrespective of a
19 subsequent order under Section 1203.4 of the Penal Code allowing
20 that person to withdraw his or her plea of guilty and to enter a plea
21 of not guilty, or setting aside the verdict of guilty, or dismissing the
22 accusation, information, or indictment.

23 This section shall become operative on January 1, ~~2003~~ 2008.

24 *SEC. 27. Section 9853 of the Business and Professions Code,*
25 *as amended by Section 44 of Chapter 401 of the Statutes of 1997,*
26 *is amended to read:*

27 9853. A plea or verdict of guilty or a conviction following a
28 plea of nolo contendere made to a charge substantially related to
29 the qualifications, functions, and duties of a service dealer or
30 service contractor is deemed to be a conviction within the meaning
31 of this article. The director may order the registration temporarily
32 or permanently invalidated, or may decline to issue a registration,
33 when the time for appeal has elapsed, or the judgment of
34 conviction has been affirmed on appeal or when an order granting
35 probation is made suspending the imposition of sentence,
36 irrespective of a subsequent order under Section 1203.4 of the
37 Penal Code, allowing that person to withdraw his or her plea of
38 guilty and to enter a plea of not guilty, or setting aside the verdict
39 of guilty, or dismissing the accusation, information, or indictment.

1 This section shall remain in effect only until January 1, ~~2003~~
2 2008, and as of that date is repealed, unless a later enacted statute,
3 that is enacted before January 1, ~~2003~~ 2008, deletes or extends that
4 date.

5 *SEC. 28. Section 9855.9 of the Business and Professions Code*
6 *is amended to read:*

7 9855.9. This article shall remain in effect only until January
8 1, ~~2003~~ 2008, and as of that date is repealed, unless a later enacted
9 statute, that is enacted before January 1, ~~2003~~ 2008, deletes or
10 extends that date.

11 *SEC. 29. Section 9860 of the Business and Professions Code,*
12 *as amended by Section 51 of Chapter 401 of the Statutes of 1997,*
13 *is amended to read:*

14 9860. The director shall establish procedures for accepting
15 complaints from the public against any service dealer.

16 This section shall become operative on January 1, ~~2003~~ 2008.

17 *SEC. 30. Section 9860 of the Business and Professions Code,*
18 *as amended by Section 50 of Chapter 401 of the Statutes of 1997,*
19 *is amended to read:*

20 9860. The director shall establish procedures for accepting
21 complaints from the public against any service dealer or service
22 contractor.

23 This section shall remain in effect only until January 1, ~~2003~~
24 2008, and as of that date is repealed, unless a later enacted statute,
25 that is enacted before January 1, ~~2003~~ 2008, deletes or extends that
26 date.

27 *SEC. 31. Section 9862.5 of the Business and Professions Code*
28 *is amended to read:*

29 9862.5. If a complaint indicates a possible violation of this
30 chapter or of the regulations adopted pursuant to this chapter, the
31 director may advise the service contractor of the contents of the
32 complaint and, if the service contractor is so advised, the director
33 shall make a summary investigation of the facts after the service
34 dealer has had reasonable opportunity to reply thereto.

35 This section shall remain in effect only until January 1, ~~2003~~
36 2008, and as of that date is repealed, unless a later enacted statute,
37 that is enacted before January 1, ~~2003~~ 2008, deletes or extends that
38 date.

1 SEC. 32. Section 9863 of the Business and Professions Code,
2 as amended by Section 54 of Chapter 401 of the Statutes of 1997,
3 is amended to read:

4 9863. If, upon summary investigation, it appears *probable* to
5 the director—~~probable~~ that a violation of this chapter, or the
6 regulations thereunder, has occurred, the director, in his or her
7 discretion, may suggest measures that in the director's judgment
8 would compensate the complainant for the damages he or she has
9 suffered as a result of the alleged violation. If the service dealer
10 accepts the director's suggestions and performs accordingly, the
11 director shall give that fact due consideration in any subsequent
12 disciplinary proceeding. If the service dealer declines to abide by
13 the suggestions of the director, the director may investigate further
14 and may institute disciplinary proceedings in accordance with the
15 provisions of this chapter.

16 This section shall become operative on January 1, ~~2003~~ 2008.

17 SEC. 33. Section 9863 of the Business and Professions Code,
18 as amended by Section 53 of Chapter 401 of the Statutes of 1997,
19 is amended to read:

20 9863. If, upon summary investigation, it appears *probable* to
21 the director—~~probable~~ that a violation of this chapter, or the
22 regulations thereunder, has occurred, the director, in his or her
23 discretion, may suggest measures that in the director's judgment
24 would compensate the complainant for the damages he or she has
25 suffered as a result of the alleged violation. If the service dealer or
26 service contractor accepts the director's suggestions and performs
27 accordingly, the director shall give that fact due consideration in
28 any subsequent disciplinary proceeding. If the service dealer or
29 service contractor declines to abide by the suggestions of the
30 director, the director may investigate further and may institute
31 disciplinary proceedings in accordance with the provisions of this
32 chapter.

33 This section shall remain in effect only until January 1, ~~2003~~
34 2008, and as of that date is repealed, unless a later enacted statute,
35 that is enacted before January 1, ~~2003~~ 2008, deletes or extends that
36 date.

37 SEC. 34. Section 9873 of the Business and Professions Code,
38 as amended by Section 56 of Chapter 401 of the Statutes of 1997,
39 is amended to read:

9873. The fees prescribed by this chapter shall be set by the director by regulation, according to the following schedule:

(a) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars (\$165) for each place of business in this state. The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred twenty-five dollars (\$325).

(b) The annual registration renewal fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars (\$165) for each place of business in this state, if renewed prior to its expiration date. The annual renewal fee for a service dealer who engages in the business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred dollars (\$300).

(c) The delinquency fee is an amount equal to 50 percent of the renewal fee for a license in effect on the date of renewal of the license, except as otherwise provided in Section 163.5.

This section shall become operative on January 1, ~~2003~~ 2008.

SEC. 35. Section 9873 of the Business and Professions Code, as amended by Section 2 of Chapter 1075 of the Statutes of 1998, is amended to read:

9873. The fees prescribed by this chapter shall be set by the director by regulation, according to the following schedule:

(a) (1) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than one hundred sixty-five dollars (\$165) for each place of business in this state. The initial registration fee for a service contractor is not more than seventy-five dollars (\$75) for each place of business in this state.

(2) The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than three hundred twenty-five dollars (\$325) for each place of business in this state. The initial registration fee for a person who is a service contractor and engages in business as either an electronic repair industry service dealer or an appliance repair industry service

1 dealer is not more than two hundred forty dollars (\$240) for each
2 place of business in this state.

3 (3) The initial registration fee for a person who engages in both
4 the electronic repair industry and the appliance repair industry as
5 a service dealer and is a service contractor is not more than four
6 hundred dollars (\$400) for each place of business in this state.

7 (4) On or after January 1, 2000, the initial registration fee for
8 a service contractor described in subdivision (e) of Section 12741
9 of the Insurance Code shall be set by the director in an amount not
10 to exceed the actual and direct costs associated with the regulation
11 of those service contractors, but in no event more than fifty
12 thousand dollars (\$50,000).

13 A service dealer or service contractor who does not operate a
14 place of business in this state, but engages in the electronic repair
15 industry, the appliance repair industry, or sells, issues, or
16 administers service contracts in this state shall pay the registration
17 fee specified herein as if he or she had a place of business in this
18 state.

19 (b) (1) The annual registration renewal fee for an electronic
20 repair industry service dealer or for an appliance repair industry
21 service dealer is not more than one hundred sixty-five dollars
22 (\$165) for each place of business in this state, if renewed prior to
23 its expiration date. The annual registration renewal fee for a
24 service contractor is seventy-five dollars (\$75) for each place of
25 business in this state, if renewed prior to its expiration date.

26 (2) The annual renewal fee for a service dealer who engages in
27 the business as both an electronic repair industry service dealer and
28 an appliance repair industry service dealer is not more than three
29 hundred dollars (\$300) for each place of business in this state.

30 (3) The annual renewal fee for a service dealer who engages in
31 the electronic repair industry and the appliance repair industry and
32 is a service contractor is not more than three hundred seventy-five
33 dollars (\$375) for each place of business in this state.

34 (4) It is the intent of the Legislature that the amount of the
35 annual registration renewal fee for a service contractor described
36 in subdivision (e) of Section 12741 of the Insurance Code shall be
37 evaluated and set by the Legislature.

38 A service dealer or service contractor who does not operate a
39 place of business in this state, but who engages in the electronic
40 repair industry, the appliance repair industry, or sells or issues

1 service contracts in this state shall pay the registration fee specified
2 herein as if he or she had a place of business in this state.

3 (c) The delinquency fee is an amount equal to 50 percent of the
4 renewal fee for a license in effect on the date of renewal of the
5 license, except as otherwise provided in Section 163.5.

6 This section shall remain in effect only until January 1, ~~2003~~
7 2008, and as of that date is repealed, unless a later enacted statute,
8 which is enacted before January 1, ~~2003~~ 2008, deletes or extends
9 that date.

10 *SEC. 36.* Section 19010.1 of the Business and Professions
11 Code is amended to read:

12 19010.1. "Custom upholsterer" means a person who, either
13 by himself or herself or through employees or agents, repairs,
14 reupholsters, re-covers, restores, or renews upholstered furniture,
15 or who makes to order and specification of the user any article of
16 upholstered furniture, using either new materials or owner's
17 materials.

18 ~~SEC. 17.~~

19 *SEC. 37.* Section 19010.5 of the Business and Professions
20 Code is amended to read:

21 19010.5. "Wholesaler" means a person who, on his or her
22 own account, sells any article of upholstered furniture or bedding
23 or filling materials to another for the purpose of resale, but shall
24 not include an affiliate or a subsidiary where the ownership and
25 name are identical, and that is the exclusive sales outlet of a
26 manufacturer.

27 ~~SEC. 18.~~

28 *SEC. 38.* Section 19011 of the Business and Professions Code
29 is amended to read:

30 19011. "Manufacturer" means a person who, either by
31 himself or herself or through employees or agents, makes any
32 article of upholstered furniture or bedding in whole or in part, or
33 who does the upholstery or covering of any unit thereof, using
34 either new or secondhand material. "Manufacturer" does not,
35 however, include a "custom upholsterer," as defined in Section
36 19010.1.

37 ~~SEC. 19.~~

38 *SEC. 39.* Section 19017 of the Business and Professions Code
39 is amended to read:

1 19017. “Owner’s material” means any article or material
2 belonging to a person for his or her own, or tenant’s use, that is sent
3 to any manufacturer, bedding renovator, or custom upholsterer to
4 be repaired or renovated, or used in repairing or renovating.

5 ~~SEC. 20.~~

6 *SEC. 40.* Section 19031 of the Business and Professions Code
7 is amended to read:

8 19031. The chief shall be appointed by the Governor and shall
9 serve at his or her pleasure. His or her compensation shall be fixed
10 by the Director of Consumer Affairs in accordance with law.

11 The duty of enforcing and administering this chapter is vested
12 in the chief and he or she is responsible to the director therefor.

13 ~~SEC. 21.~~

14 *SEC. 41.* Section 19034.5 of the Business and Professions
15 Code is amended to read:

16 19034.5. All rules and regulations shall become effective not
17 earlier than 30 days after approval by the director, and upon
18 compliance with the procedure provided in Chapter 3.5
19 (commencing with Section 11340) of Part 1 of Division 3 of Title
20 2 of the Government Code.

21 ~~SEC. 22.~~

22 *SEC. 42.* Section 19049 of the Business and Professions Code
23 is amended to read:

24 19049. It shall be unlawful for any person to engage in a
25 business regulated by this chapter unless, at the time of so doing,
26 he or she holds a valid, unexpired license to engage in that
27 business, in compliance with the provisions of this chapter.

28 ~~SEC. 23.~~

29 *SEC. 43.* Section 19059.5 of the Business and Professions
30 Code is amended to read:

31 19059.5. Every sanitizer shall hold a sanitizer’s license unless
32 he or she is licensed as a home medical device retail facility by the
33 State Department of Health Services or as an upholstered furniture
34 and bedding manufacturer, retail furniture and bedding dealer,
35 retail bedding dealer, or custom upholsterer.

36 ~~SEC. 24.~~

37 *SEC. 44.* Section 19060.5 of the Business and Professions
38 Code is amended to read:

39 19060.5. Every person who, on his or her own account, sells
40 either directly or indirectly to any person either at wholesale or

1 retail any merchandise subject to this chapter by means of a car,
2 catalog, office, or in any other manner, shall obtain the proper
3 license for each method of sale or distribution.

4 ~~SEC. 25.~~

5 *SEC. 45.* Section 19062 of the Business and Professions Code
6 is amended to read:

7 19062. A license issued by the bureau shall be posted in a
8 conspicuous place in the main office or principal place of business
9 of the licensee.

10 ~~SEC. 26.~~

11 *SEC. 46.* Section 19063 of the Business and Professions Code
12 is amended to read:

13 19063. The bureau may refuse to issue any license provided
14 for in this chapter to any individual:

15 (a) Who has had any license issued to him or her revoked, or
16 whose license is under suspension, or who has failed to renew his
17 or her license while it was under suspension.

18 (b) If any license of a partnership of which he or she is or was
19 a member, or of a corporation of which he or she is or was an officer
20 or director, or of a firm or association of which he or she is or was
21 an officer or of which he or she is or was acting in a managerial
22 capacity, has had any license issued to it revoked or suspended, and
23 while acting as a member, officer, director, or in a managerial
24 capacity he or she participated in any of the prohibited acts for
25 which the license was revoked or suspended.

26 ~~SEC. 27.~~

27 *SEC. 47.* Section 19064 of the Business and Professions Code
28 is amended to read:

29 19064. The bureau may refuse to issue any license provided
30 for in this chapter to any partnership, corporation, firm, or
31 association:

32 (a) Who has had any license issued to it revoked, or whose
33 license is under suspension, or who has failed to renew its license
34 while it was under suspension.

35 (b) If any member of the partnership, or any officer or director
36 of the corporation, or any officer or person acting in a managerial
37 capacity of the firm or association has had any license issued to
38 him or her revoked, or whose license is under suspension, or who
39 has failed to renew his or her license while it was under suspension.

1 (c) If any member of the partnership, or any officer or director
2 of the corporation, or any officer or person acting in a managerial
3 capacity of the firm or association, was either a member of any
4 partnership, or an officer or director of any corporation, or an
5 officer or person acting in a managerial capacity of any firm or
6 association, whose license has been revoked, or whose license is
7 under suspension, or who failed to renew a license while it was
8 under suspension, and while acting as such member, officer,
9 director, or person acting in a managerial capacity participated in
10 any of the prohibited acts for which any such license was revoked
11 or suspended.

12 ~~SEC. 28.~~

13 *SEC. 48.* Section 19072.6 of the Business and Professions
14 Code is amended to read:

15 19072.6. The manufacturer of chairs and benches and similar
16 articles, using slip seats that are manufactured by himself or herself
17 or purchased from another, is responsible for the labeling of those
18 articles.

19 ~~SEC. 29.~~

20 *SEC. 49.* Section 19093 of the Business and Professions Code
21 is amended to read:

22 19093. Any person who repairs or renovates upholstered
23 furniture or bedding for the owner for his or her own or a tenant's
24 use, shall affix the "Owner's Material" label, which shall be
25 attached to the article before delivery to the owner.

26 ~~SEC. 30.~~

27 *SEC. 50.* Section 19162 of the Business and Professions Code
28 is amended to read:

29 19162. A custom upholsterer shall give to his or her customer
30 a written estimate of the price of the labor and materials necessary
31 for a specific job. No work shall be performed and no charges shall
32 accrue before authorization to proceed is obtained from the
33 customer, and no charge shall be made for work performed or
34 materials supplied in excess of the estimated price without the oral
35 or written consent of the customer obtained after it is determined
36 that the estimated price is insufficient and before the work not
37 estimated is performed or the materials not estimated are supplied.
38 Nothing in this section shall be construed as requiring a custom
39 upholsterer to give an estimate if he or she does not agree to
40 perform the requested work. As used in this section, "materials"



includes structural units, filling materials, containers, and coverings.

~~SEC. 31.~~

SEC. 51. Section 19170 of the Business and Professions Code is amended to read:

19170. (a) The fee imposed for the issuance and for the biennial renewal of each license granted under this chapter shall be set by the chief, with the approval of the director, at a sum not more nor less than that shown in the following table:

	Maximum fee	Minimum fee
Importer's license	\$750	\$120
Furniture and bedding manufacturer's license	750	120
Wholesale furniture and bedding dealer's license	540	120
Supply dealer's license	540	120
Custom upholsterer's license	360	80
Sanitizer's license	360	80
Retail furniture and bedding dealer's license	240	40
Retail furniture dealer's license	120	20
Retail bedding dealer's license	120	20

(b) Individuals who, in their own homes and without the employment of any other person, make, sell, advertise, or contract to make pillows, quilts, quilted pads, or comforters are exempt from the fee requirements imposed by subdivision (a). However, these individuals shall comply with all other provisions of this chapter.

(c) Retailers who only sell "used" and "antique" furniture as defined in Sections 19008.1 and 19008.2 are exempt from the fee requirements imposed by subdivision (a). Those retailers are also exempt from the other provisions of this chapter.

(d) A person who makes, sells, or advertises upholstered furniture and bedding as defined in Sections 19006 and 19007, and who also makes, sells, or advertises furniture used exclusively for the purpose of physical fitness and exercise, shall comply with the fee requirements imposed by subdivision (a).

(e) A person who has paid the required fee and who is licensed either as an upholstered furniture and bedding manufacturer or a custom upholsterer under this chapter shall not be required to additionally pay the fee for a sanitizer's license.

~~SEC. 32.~~

SEC. 52. Section 19208 of the Business and Professions Code is amended to read:

19208. The chief or his or her authorized designee may cite any person licensed under and subject to the provisions of this chapter to participate in an office conference before the chief to show cause why he or she should not be subject to any or a range of disciplinary actions or to prosecution for any violation of this chapter.

~~SEC. 33.~~

SEC. 53. Section 19211 of the Business and Professions Code is amended to read:

19211. Any person who has been denied a license, or who has had his or her license revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension, or any person who has been a member of any partnership, or an officer or director of any corporation, or an officer or person acting in a managerial capacity of any firm or association, whose license has been revoked, or whose license is under suspension, or who has failed to renew a license while it was under suspension, and while acting as a member, officer, director, or person acting in a managerial capacity, participated in any of the prohibited acts for which the license was suspended, or revoked, shall be prohibited from serving as a member of any licensed partnership, or as an officer or director of any licensed corporation, or as an officer or person acting in a managerial capacity of any licensed firm or association, and the employment, election, or association of a person in this capacity by a licensee shall constitute grounds for disciplinary action against the licensee.

~~SEC. 34.~~

SEC. 54. Section 19215.1 of the Business and Professions Code is amended to read:

19215.1. The acceptance by a nonresident licensee of any of the rights and privileges conferred upon him or her by this chapter, as evidenced by his or her engaging within this state, either personally or through an agent or employee, in a business subject

1 to license under this chapter, is equivalent to the appointment by
2 the licensee of the director as his or her true and lawful attorney
3 upon whom may be served all lawful process in any disciplinary
4 proceeding conducted against him or her under this chapter.

5 ~~SEC. 35.~~

6 *SEC. 55.* Section 19215.2 of the Business and Professions
7 Code is amended to read:

8 19215.2. The acceptance of such rights and privileges as so
9 evidenced shall signify the agreement of the licensee that any such
10 process which is served against him or her in the manner provided
11 in this article shall be of the same legal force and validity as if
12 served upon him or her personally in this state.

13 ~~SEC. 36.~~

14 *SEC. 56.* Section 19215.3 of the Business and Professions
15 Code is amended to read:

16 19215.3. Service shall be made by leaving a copy of the
17 accusation, together with a notice of defense and statement to
18 respondent as described in Section 11505 of the Government
19 Code, with a fee of two dollars (\$2) for each licensee to be served,
20 in the hands of the director or in his or her office in Sacramento.
21 This service shall be sufficient service on the licensee subject to
22 compliance with Section 19215.4 of this code.

23 ~~SEC. 37.~~

24 *SEC. 57.* Section 19215.4 of the Business and Professions
25 Code is amended to read:

26 19215.4. A notice of such service and a copy of the
27 accusation, together with the notice of defense and statement to
28 respondent, shall forthwith be sent by registered mail by the
29 director to the licensee at his or her last known address as furnished
30 by the bureau. Personal service of this notice, copy of the
31 accusation, notice of defense, and statement to respondent upon
32 the licensee wherever found outside this state shall be the
33 equivalent of this mailing.

34 ~~SEC. 38.~~

35 *SEC. 58.* Section 19215.5 of the Business and Professions
36 Code is amended to read:

37 19215.5. Proof of compliance with Section 19215.4 shall be
38 made in the event of service by mail by affidavit of the director or
39 his or her authorized employee showing this service by mailing,
40 together with the return receipt of the United States post office

1 bearing the signature of the licensee or his or her agent. The
2 affidavit and receipt shall be appended to the original accusation
3 on file with the bureau. In the event of personal service outside this
4 state, compliance may be proved by the return of any duly
5 constituted public officer qualified to serve process in civil actions
6 in the state or jurisdiction where the licensee is found, showing
7 such service to have been made. This return shall be appended to
8 the original accusation on file with the bureau.

9 ~~SEC. 39.~~

10 *SEC. 59.* Section 19215.6 of the Business and Professions
11 Code is amended to read:

12 19215.6. The bureau, or if the proceeding has been assigned
13 to a hearing officer of the Office of Administrative Hearings, the
14 hearing officer, may order postponements or continuances and
15 grant extensions of time that may be necessary to afford the
16 licensee reasonable opportunity to defend the proceeding. In no
17 event shall the licensee have less than 30 days after the date of
18 mailing or delivery to him or her of the copy of the accusation in
19 which to file a notice of defense, nor shall the notice of hearing
20 provided for in Section 11509 of the Government Code or the
21 notice and copy of affidavit referred to in Section 11514 of the
22 Government Code be mailed or delivered less than 20 days prior
23 to the date of hearing, and the time for making a request to
24 cross-examine under Section 11514 of the Government Code shall
25 be not less than 15 days.

26 ~~SEC. 40.~~

27 *SEC. 60.* Section 19215.7 of the Business and Professions
28 Code is amended to read:

29 19215.7. The director shall keep a record of all process served
30 upon him or her pursuant to this article that shall show the day and
31 hour of service.

32 ~~SEC. 41.~~

33 *SEC. 61.* Section 19215.8 of the Business and Professions
34 Code is amended to read:

35 19215.8. As used in this article “nonresident” means a person
36 who is not a resident of this State at the time he or she engages in
37 business in the State as described in Section 19215.1.

38 ~~SEC. 42.~~



1 SEC. 62. *Section 1791 of the Civil Code, as amended by*
2 *Section 63 of Chapter 401 of the Statutes of 1997, is amended to*
3 *read:*

4 1791. As used in this chapter:

5 (a) “Consumer goods” means any new product or part thereof
6 that is used, bought, or leased for use primarily for personal,
7 family, or household purposes, except for clothing and
8 consumables. “Consumer goods” shall include new and used
9 assistive devices sold at retail.

10 (b) “Buyer” or “retail buyer” means any individual who buys
11 consumer goods from a person engaged in the business of
12 manufacturing, distributing, or selling consumer goods at retail.
13 As used in this subdivision, “person” means any individual,
14 partnership, corporation, limited liability company, association, or
15 other legal entity that engages in any of these businesses.

16 (c) “Clothing” means any wearing apparel, worn for any
17 purpose, including under and outer garments, shoes, and
18 accessories composed primarily of woven material, natural or
19 synthetic yarn, fiber, or leather or similar fabric.

20 (d) “Consumables” means any product that is intended for
21 consumption by individuals, or use by individuals for purposes of
22 personal care or in the performance of services ordinarily rendered
23 within the household, and that usually is consumed or expended
24 in the course of consumption or use.

25 (e) “Distributor” means any individual, partnership,
26 corporation, association, or other legal relationship that stands
27 between the manufacturer and the retail seller in purchases,
28 consignments, or contracts for sale of consumer goods.

29 (f) “Independent repair or service facility” or “independent
30 service dealer” means any individual, partnership, corporation,
31 association, or other legal entity, not an employee or subsidiary of
32 a manufacturer or distributor, that engages in the business of
33 servicing and repairing consumer goods.

34 (g) “Lease” means any contract for the lease or bailment for
35 the use of consumer goods by an individual, for a term exceeding
36 four months, primarily for personal, family, or household
37 purposes, whether or not it is agreed that the lessee bears the risk
38 of the consumer goods’ depreciation.

39 (h) “Lessee” means an individual who leases consumer goods
40 under a lease.

(i) “Lessor” means a person who regularly leases consumer goods under a lease.

(j) “Manufacturer” means any individual, partnership, corporation, association, or other legal relationship that manufactures, assembles, or produces consumer goods.

(k) “Place of business” means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for consumer goods.

(l) “Retail seller,” “seller,” or “retailer” means any individual, partnership, corporation, association, or other legal relationship that engages in the business of selling or leasing consumer goods to retail buyers.

(m) “Return to the retail seller” means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the retail seller’s place of business, as defined in subdivision (k).

(n) “Sale” means ~~(1) the~~ *either of the following*:

~~(1) The passing of title from the seller to the buyer for a price;~~
~~or (2) a.~~

~~(2) A consignment for sale.~~

(o) “Service contract” means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product, except that this term does not include a policy of automobile insurance, as defined in Section 116 of the Insurance Code.

(p) “Assistive device” means any instrument, apparatus, or contrivance, including any component or part thereof or accessory thereto, that is used or intended to be used, to assist an individual with a disability in the mitigation or treatment of an injury or disease or to assist or affect or replace the structure or any function of the body of an individual with a disability, except that this term does not include prescriptive lenses and other ophthalmic goods unless they are sold or dispensed to a blind person, as defined in Section 19153 of the Welfare and Institutions Code and unless they are intended to assist the limited vision of the person so disabled.

(q) “Catalog or similar sale” means a sale in which neither the seller nor any employee or agent of the seller nor any person related to the seller nor any person with a financial interest in the sale participates in the diagnosis of the buyer’s condition or in the selection or fitting of the device.

(r) “Home appliance” means any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, garbage disposal, trash compactor, or room air-conditioner normally used or sold for personal, family, or household purposes.

(s) “Home electronic product” means any television, radio, antenna rotator, audio or video recorder or playback equipment, video camera, video game, video monitor, computer equipment, telephone, telecommunications equipment, electronic alarm system, electronic appliance control system, or other kind of electronic product, if it is normally used or sold for personal, family, or household purposes. The term includes any electronic accessory that is normally used or sold with a home electronic product for one of those purposes. The term excludes any single product with a wholesale price to the retail seller of less than fifty dollars (\$50).

This section shall become operative on January 1, ~~2003~~ 2008.

SEC. 63. Section 1791 of the Civil Code, as amended by Section 2 of Chapter 196 of the Statutes of 1998, is amended to read:

1791. As used in this chapter:

(a) “Consumer goods” means any new product or part thereof that is used, bought, or leased for use primarily for personal, family, or household purposes, except for clothing and consumables. “Consumer goods” shall include new and used assistive devices sold at retail.

(b) “Buyer” or “retail buyer” means any individual who buys consumer goods from a person engaged in the business of manufacturing, distributing, or selling consumer goods at retail. As used in this subdivision, “person” means any individual, partnership, corporation, limited liability company, association, or other legal entity that engages in any such business.

(c) “Clothing” means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn, fiber, or leather or similar fabric.

(d) “Consumables” means any product that is intended for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and that usually is consumed or expended in the course of consumption or use.

(e) “Distributor” means any individual, partnership, corporation, association, or other legal relationship that stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods.

(f) “Independent repair or service facility” or “independent service dealer” means any individual, partnership, corporation, association, or other legal entity, not an employee or subsidiary of a manufacturer or distributor, that engages in the business of servicing and repairing consumer goods.

(g) “Lease” means any contract for the lease or bailment for the use of consumer goods by an individual, for a term exceeding four months, primarily for personal, family, or household purposes, whether or not it is agreed that the lessee bears the risk of the consumer goods’ depreciation.

(h) “Lessee” means an individual who leases consumer goods under a lease.

(i) “Lessor” means a person who regularly leases consumer goods under a lease.

(j) “Manufacturer” means any individual, partnership, corporation, association, or other legal relationship that manufactures, assembles, or produces consumer goods.

(k) “Place of business” means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for these goods.

(l) “Retail seller,” “seller,” or “retailer” means any individual, partnership, corporation, association, or other legal relationship that engages in the business of selling or leasing consumer goods to retail buyers.

(m) “Return to the retail seller” means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the retail seller’s place of business, as defined in subdivision (k).

(n) “Sale” means ~~(1) the~~ *either of the following*:

~~(1) The passing of title from the seller to the buyer for a price;~~
~~or (2) a.~~

(2) A consignment for sale.

(o) “Service contract” means a contract in writing to perform, for an additional cost, over a fixed period of time or for a specified duration, services relating to the maintenance, replacement, or repair of a consumer product, except that this term does not include

1 a policy of automobile insurance, as defined in Section 116 of the
2 Insurance Code.

3 (p) “Service contract administrator” or “administrator”
4 means a person, other than a service contract seller or an insurer
5 admitted to do business in this state, who performs or arranges, or
6 has an affiliate who performs or arranges, the collection,
7 maintenance, or disbursement of moneys to compensate any party
8 for claims or repairs pursuant to a service contract, and who also
9 performs or arranges, or has an affiliate who performs or arranges,
10 any of the following activities on behalf of service contract sellers:

11 (1) Providing service contract sellers with service contract
12 forms.

13 (2) Participating in the adjustment of claims arising from
14 service contracts.

15 (3) Arranging on behalf of service contract sellers the
16 insurance required by Section 9855.2 of the *Business and*
17 *Professions Code*. A service contract administrator shall not be an
18 obligor on a service contract.

19 (q) “Service contract seller” or “seller” means a person who
20 sells or offers to sell a service contract to a service contractholder,
21 including a person who is the obligor under a service contract sold
22 by the seller, manufacturer, or repairer of the product covered by
23 the service contract.

24 (r) “Service contractor” means a service contract
25 administrator or a service contract seller.

26 (s) “Assistive device” means any instrument, apparatus, or
27 contrivance, including any component or part thereof or accessory
28 thereto, that is used or intended to be used, to assist an individual
29 with a disability in the mitigation or treatment of an injury or
30 disease or to assist or affect or replace the structure or any function
31 of the body of an individual with a disability, except that this term
32 does not include prescriptive lenses and other ophthalmic goods
33 unless they are sold or dispensed to a blind person, as defined in
34 Section 19153 of the Welfare and Institutions Code, and unless
35 they are intended to assist the limited vision of the person so
36 disabled.

37 (t) “Catalog or similar sale” means a sale in which neither the
38 seller nor any employee or agent of the seller nor any person
39 related to the seller nor any person with a financial interest in the

1 sale participates in the diagnosis of the buyer's condition or in the
2 selection or fitting of the device.

3 (u) "Home appliance" means any refrigerator, freezer, range,
4 microwave oven, washer, dryer, dishwasher, garbage disposal,
5 trash compactor, room air-conditioner, or other kind of appliance
6 product normally used or sold for personal, family, or household
7 purposes.

8 (v) "Home electronic product" means any television, radio,
9 antenna rotator, audio or video recorder or playback equipment,
10 video camera, video game, video monitor, computer equipment,
11 telephone, telecommunications equipment, electronic alarm
12 system, electronic appliance control system, or other kind of
13 electronic product, if it is normally used or sold for personal,
14 family, or household purposes. The term includes any electronic
15 accessory that is normally used or sold with a home electronic
16 product for one of those purposes. The term excludes any single
17 product with a wholesale price to the retail seller of less than fifty
18 dollars (\$50).

19 (w) "Obligor" is the entity financially and legally obligated
20 under the terms of a service contract.

21 This section shall remain in effect only until January 1, 2003
22 2008, and as of that date is repealed, unless a later enacted statute,
23 that is enacted before January 1, 2003-2008, deletes or extends that
24 date.

25 *SEC. 64. Section 1794.4 of the Civil Code, as amended by*
26 *Section 65 of Chapter 401 of the Statutes of 1997, is amended to*
27 *read:*

28 1794.4. (a) Nothing in this chapter shall be construed to
29 prevent the sale of a service contract to the buyer in addition to or
30 in lieu of an express warranty if that contract fully and
31 conspicuously discloses in simple and readily understood
32 language the terms, conditions, and exclusions of that contract,
33 provided that nothing in this section shall apply to a home
34 protection contract issued by a home protection company that is
35 subject to Part 7 (commencing with Section 12740) of Division 2
36 of the Insurance Code.

37 (b) Except as otherwise expressly provided in the service
38 contract, every service contract shall obligate the service
39 contractor to provide to the buyer of the product all of the services
40 and functional parts that may be necessary to maintain proper



operation of the entire product under normal operation and service for the duration of the service contract and without additional charge.

(c) The service contract shall contain all of the following items of information:

(1) A clear description and identification of the covered product.

(2) The point in time or event when the term of the service contract commences, and its duration measured by elapsed time or an objective measure of use.

(3) If the enforceability of the service contract is limited to the original buyer or is limited to persons other than every consumer owner of the covered product during the term of the service contract, a description of the limits on transfer or assignment of the service contract.

(4) A statement of the general obligation of the service contractor in the same language set forth in subdivision (b), with equally clear and conspicuous statements of ~~(A) any~~ the following:

(A) Any services, parts, characteristics, components, properties, defects, malfunctions, causes, conditions, repairs, or remedies that are excluded from the scope of the service contract; ~~(B) any.~~

(B) Any other limits on the application of the language in subdivision (b) such as a limit on the total number of service calls; ~~(C) any.~~

(C) Any additional services that the service contractor will provide; ~~(D) whether.~~

(D) Whether the obligation of the service contractor includes preventive maintenance and, if so, the nature and frequency of the preventive maintenance that the service contractor will provide; ~~and (E) whether.~~

(E) Whether the buyer has an obligation to provide preventive maintenance or perform any other obligations and, if so, the nature and frequency of the preventive maintenance and of any other obligations, and the consequences of any noncompliance.

(5) A step-by-step explanation of the procedure that the buyer should follow in order to obtain performance of any obligation under the service contract including ~~(A) the~~ the following:

(A) The full legal and business name of the service contractor; ~~(B) the.~~

1 (B) *The mailing address of the service contractor;* ~~(C) the.~~

2 (C) *The persons or class of persons that are authorized to*
3 *perform service;* ~~(D) the.~~

4 (D) *The name or title and address of any agent, employee, or*
5 *department of the service contractor that is responsible for the*
6 *performance of any obligations;* ~~(E) the.~~

7 (E) *The method of giving notice to the service contractor of the*
8 *need for service;* ~~(F) whether.~~

9 (F) *Whether in-home service is provided or, if not, whether the*
10 *costs of transporting the product, for service or repairs will be paid*
11 *by the service contractor;* ~~(G) if.~~

12 (G) *If the product must be transported to the service contractor,*
13 *either the place where the product may be delivered for service or*
14 *repairs or a toll-free telephone number that the buyer may call to*
15 *obtain that information;* ~~(H) all.~~

16 (H) *All other steps that the buyer must take to obtain service;*
17 *and* ~~(I) all.~~

18 (I) *All fees, charges, and other costs that the buyer must pay to*
19 *obtain service.*

20 (6) *An explanation of the steps that the service contractor will*
21 *take to carry out its obligations under the service contract.*

22 (7) *A description of any right to cancel the contract if the buyer*
23 *returns the product or the product is sold, lost, stolen, or destroyed,*
24 *or, if there is no right to cancel or the right to cancel is limited, a*
25 *statement of the fact.*

26 (8) *Information respecting the availability of any informal*
27 *dispute settlement process.*

28 (d) ~~Subdivisions (b) and (c) of this section~~ are applicable to
29 service contracts on new or used home appliances and home
30 electronic products entered into on or after July 1, 1989. They are
31 applicable to service contracts on all other new or used products
32 entered into on and after July 1, 1991.

33 (e) This section shall become operative on January 1, ~~2003~~
34 ~~2008~~.

35 *SEC. 65. Section 1794.4 of the Civil Code, as amended by*
36 *Section 64 of Chapter 401 of the Statutes of 1997, is amended to*
37 *read:*

38 1794.4. (a) Nothing in this chapter shall be construed to
39 prevent the sale of a service contract to the buyer in addition to, or
40 in lieu of, an express warranty if that contract fully and

1 conspicuously discloses in simple and readily understood
2 language the terms, conditions, and exclusions of that contract,
3 provided that nothing in this section shall apply to a home
4 protection contract issued by a home protection company that is
5 subject to Part 7 (commencing with Section 12740) of Division 2
6 of the Insurance Code.

7 (b) Except as otherwise expressly provided in the service
8 contract, every service contract shall obligate the service contract
9 seller to provide to the buyer of the product all of the services and
10 functional parts that may be necessary to maintain proper
11 operation of the entire product under normal operation and service
12 for the duration of the service contract and without additional
13 charge.

14 (c) The service contract shall contain all of the following items
15 of information:

16 (1) A clear description and identification of the covered
17 product.

18 (2) The point in time or event when the term of the service
19 contract commences, and its duration measured by elapsed time or
20 an objective measure of use.

21 (3) If the enforceability of the service contract is limited to the
22 original buyer or is limited to persons other than every consumer
23 owner of the covered product during the term of the service
24 contract, a description of the limits on transfer or assignment of the
25 service contract.

26 (4) A statement of the general obligation of the service contract
27 seller in the same language set forth in subdivision (b), with
28 equally clear and conspicuous statements of ~~(A) any~~ the following:

29 (A) Any services, parts, characteristics, components,
30 properties, defects, malfunctions, causes, conditions, repairs, or
31 remedies that are excluded from the scope of the service contract;
32 ~~(B) any.~~

33 (B) Any other limits on the application of the language in
34 subdivision (b) such as a limit on the total number of service calls;
35 ~~(C) any.~~

36 (C) Any additional services that the service contract seller will
37 provide; ~~(D) whether.~~

38 (D) Whether the obligation of the service contract seller
39 includes preventive maintenance and, if so, the nature and

1 frequency of the preventive maintenance that the service
2 contractor will provide; ~~and (E) whether.~~

3 (E) Whether the buyer has an obligation to provide preventive
4 maintenance or perform any other obligations and, if so, the nature
5 and frequency of the preventive maintenance and of any other
6 obligations, and the consequences of any noncompliance.

7 (5) A step-by-step explanation of the procedure that the buyer
8 should follow in order to obtain performance of any obligation
9 under the service contract, including ~~(A) the~~ the following:

10 (A) The full legal and business name of the service contract
11 seller; ~~(B) the.~~

12 (B) The mailing address of the service contract seller; ~~(C) the.~~

13 (C) The persons or class of persons that are authorized to
14 perform service; ~~(D) the.~~

15 (D) The name or title and address of any administrator, agent,
16 employee, or department of the service contract seller that is
17 responsible for the performance of any obligations; ~~(E) the.~~

18 (E) The method of giving notice to the service contract seller
19 of the need for service; ~~(F) whether.~~

20 (F) Whether in-home service is provided or, if not, whether the
21 costs of transporting the product, for service or repairs will be paid
22 by the service contract seller; ~~(G) if.~~

23 (G) If the product must be transported to the service contract
24 seller, either the place where the product may be delivered for
25 service or repairs or a toll-free telephone number that the buyer
26 may call to obtain that information; ~~(H) all.~~

27 (H) All other steps that the buyer must take to obtain service;
28 ~~and (I) all.~~

29 (I) All fees, charges, and other costs that the buyer must pay to
30 obtain service.

31 (6) An explanation of the steps that the service contract seller
32 will take to carry out its obligations under the service contract.

33 (7) A description of any right to cancel the contract if the buyer
34 returns the product or the product is sold, lost, stolen, or destroyed,
35 or, if there is no right to cancel or the right to cancel is limited, a
36 statement of the fact.

37 (8) Information respecting the availability of any informal
38 dispute settlement process.

(9) A statement identifying the person who is financially and legally obligated to perform the services specified in the service contract, including the name and address of that person.

Nothing in this subdivision shall preclude a service contract seller from designating an administrator that a service contractholder may initially contact for performance of the obligations under the service contract.

(d) Subdivisions (b) and (c) ~~of this section~~ are applicable to service contracts on new or used home appliances and home electronic products entered into on or after July 1, 1989. They are applicable to service contracts on all other new or used products entered into on and after July 1, 1991.

(e) This section shall remain in effect only until January 1, 2003 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003-2008, deletes or extends that date.

SEC. 66. Section 94050 of the Education Code is amended to read:

94050. (a) It is the intent of the Legislature in enacting this chapter to prevent deceptive and misleading use of the terms “college” and “university” by businesses and other organizations that present themselves as institutions of higher education but are not authorized to operate as private postsecondary educational institutions under Chapter 7 (commencing with Section 94700).

(b) No person shall designate a business, social, political, religious, or other organization operating in this state, including, but not limited to, any firm, association, partnership, or corporation, as a “college” or “university.”

(c) This section does not apply to the designation of any of the following:

(1) A postsecondary or vocational educational institution established, operated, and governed by a public entity, or by a firm, association, partnership, or corporation using the name of that institution with the permission of the institution.

~~(2) A private postsecondary educational institution that has been approved by the Council for Private Postsecondary and Vocational Education pursuant to Chapter 7 (commencing with Section 94700) or that is described in Section 94702. Nothing in this section precludes the Council for Private Postsecondary and Vocational Education from requiring an institution to meet~~

1 ~~additional standards in order to be designated as a “college” or~~
2 ~~“university.”~~

3 ~~(3) A nonprofit religious institution described in paragraph (6)~~
4 ~~of subdivision (e) (b) of Section 94733- 94739.~~

5 ~~(4)–~~

6 (3) A bona fide trade, business, professional, or fraternal
7 organization that either sponsors no educational services or
8 sponsors educational services solely for the membership of the
9 organization.

10 ~~(d) The Council for Private Postsecondary and Vocational~~
11 ~~Education may grant exemptions from the application of this~~
12 ~~section to individual organizations, as determined appropriate by~~
13 ~~the council, and may adopt regulations establishing exemptions,~~
14 ~~as determined appropriate by the council, for specific categories~~
15 ~~of organizations. The council shall annually submit to the~~
16 ~~Legislature and Governor a list of all individual and categorical~~
17 ~~exemptions granted pursuant to this subdivision.~~

18 ~~(e) Any person violating this section is guilty of a~~
19 ~~misdemeanor.~~

20 ~~(f) This section shall become operative on January 1, 1997.~~

21 SEC. 67. *Section 94771 of the Education Code is amended to*
22 *read:*

23 94771. (a) The duty of administering and enforcing this
24 chapter is vested in the Director of Consumer Affairs, who may
25 assign and delegate those duties to a ~~program administrator~~ *bureau*
26 *chief*, subject to the other provisions of this section.

27 (b) Every power granted to, or duty imposed upon, the bureau
28 under this chapter may be exercised or performed in the name of
29 the bureau, subject to any conditions and limitations the director
30 may prescribe. The ~~program administrator~~ *bureau chief* may
31 redelegate any of those powers or duties to his or her designee. The
32 ~~program administrator~~ *bureau chief* shall be appointed by the
33 Governor and confirmed by the Senate, and is exempt from the
34 State Civil Service Act (Part 2 (commencing with Section 18500)
35 of Division 5 of Title 2 of the Government Code).

36 (c) The director, in accordance with the State Civil Service Act,
37 may appoint and fix the compensation of such clerical, inspection,
38 investigation, evaluation, and auditing personnel, as may be
39 necessary to carry out this chapter.

(d) The proceedings under this chapter shall be conducted by the bureau in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. To the extent of any conflict between any of the provisions of this chapter and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that Chapter 5 shall prevail.

(e) The director shall appoint an advisory committee ~~which~~ *that* shall consist of representatives of institutions, student advocates, and employers who hire students, among other parties. The advisory committee shall be balanced to ensure that institutions and student advocates have approximate equal representation. Institutional representatives on the committee shall be in general proportion to the types of institutions approved or registered pursuant to this chapter and to the number of students served by each type of institution. The advisory committee shall advise the bureau concerning the bureau's administration, licensing, and enforcement functions under this chapter.

SEC. 68. Section 15376 of the Government Code is amended to read:

15376. All state agencies that issue permits shall adopt regulations regarding their procedures for considering and issuing permits, specifying the following criteria.

(a) A period dating from the receipt of a permit application within which the agency must either inform the applicant, in writing, that the application is complete and accepted for filing, or that the application is deficient and what specific information is required.

(b) A period dating from the filing of a completed application within which the agency must reach a permit decision.

(c) The agency's median, minimum, and maximum times for processing a permit, from the receipt of the initial application to the final permit decision, based on the agency's actual performance during the two years immediately preceding the proposal of the regulation.

(d) Any new or additional permits required by any state agency after the effective date of this chapter shall be subject to the provisions of this chapter.

(e) An agency may amend its regulations to modify the agency's time periods.

(f) The rulemaking file submitted to the Office of Administrative Law shall contain a justification for time periods proposed.

(g) A state agency shall be deemed to have good cause for exceeding the maximum time period established for processing a permit under either of the following circumstances:

(1) The number of permits to be processed exceeds by 15 percent the number processed in the same calendar quarter the preceding year.

(2) The permit-issuing agency must rely on another public or private entity for all or part of the processing and the delay is caused by that other entity.

~~SEC. 43.~~

SEC. 69. Section 15378 of the Government Code is amended to read:

15378. (a) The Secretaries of the Business, Transportation and Housing, Health and Welfare, California Environmental Protection, Resources, and State and Consumer Services Agencies, and the heads of the independent agencies subject to the provisions of this chapter shall ensure that the departments, commissions, boards, and other administrative divisions within their agencies that issue permits comply with the provisions of this chapter.

(b) The secretaries and agency heads shall adopt regulations establishing an appeal process through which an applicant can appeal directly to the secretary or agency head for a timely resolution of any dispute arising from a violation of the time periods required by this chapter. The regulations shall provide for the full reimbursement of any and all filing fees paid by a permit applicant whose application was not processed within the time limits adopted by an agency pursuant to this chapter, and whose appeal to the secretary or agency head was decided in the applicant's favor. The appeal shall be decided in the applicant's favor if the state agency has exceeded its established maximum time period for issuance or denial of the permit, the agency has complied with any notice and hearing requirements, and the agency has failed to establish good cause for exceeding the time period pursuant to subdivision (g) of Section 15376. Information regarding the appeal process shall be included in the permit application forms issued by the agency.

~~SEC. 44.~~

SEC. 70. Section 44031.5 of the Health and Safety Code is amended to read:

44031.5. (a) No smog check technician may perform tests or make repairs required by this chapter, for compensation, unless qualified by the department for the class and category of vehicle being tested or repaired. To qualify, smog check technicians shall pass a qualification test administered by the department, in addition to meeting prerequisite minimum experience and training criteria established by the department, pursuant to Section 44045.5. Passage of the qualification test shall, and training may, also be required upon each biennial renewal of the smog check technician's license.

(b) The department shall prescribe training and periodic retraining courses for licensed smog check technicians pursuant to Section 44045.6.

(c) Whenever the department determines, through investigation, that a previously qualified smog check technician may lack the skills to reliably and accurately perform the test or repair functions within the required qualification, the department may prescribe for the technician one or more retraining courses which have been certified by the department. The smog check technician may request and be granted a hearing, pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, on the department's determination. The request for a hearing shall be submitted within 30 days of the department's notification of its determination. A failure to complete the prescribed retraining course within the time designated by the department, or to request a hearing within 30 days of the department's notification of its determination, shall result in loss of qualification. Upon a later completion of the prescribed department certified retraining course, the department may reinstate the smog check technician's qualification.

(d) Smog check technicians shall have the option to do hands-on work in lieu of written work in order to successfully complete the department certified training and retraining courses or may complete comparable military training as documented by submission of Verification of Military Experience and Training (V-MET) records in lieu of meeting any other training-related requirements of this section.

(e) The institution administering the department certified training or retraining courses shall issue a certificate of completion to each person who successfully completes the certified courses. The certificate shall be valid for two years.

(f) The department may, by regulation, establish procedures relating to the issuance and use of photo identification cards for licensed technicians.

~~SEC. 45.~~

SEC. 71. Section 57053.9 of the Health and Safety Code is amended to read:

57053.9. (a) On or before December 31, 1997, the office shall adopt regulations establishing an expedited appeals process by which a petitioner or responsible party may appeal any failure by a public agency to take timely action on the issuance or denial of a repair or maintenance project permit or consolidated permit in accordance with the time limits set pursuant to paragraph (4) of subdivision (a) of Section 57053.1.

(b) If the office finds that the time limits under appeal have been violated without good cause, the office shall establish a date certain by which the public agency shall act on the repair or maintenance project permit or consolidated permit application with adequate provision for the requirements described in subparagraphs (A) to (C), inclusive, of paragraph (4) of subdivision (a) of Section 57053.1, and shall provide for the full reimbursement of any filing or permit processing fees paid by the responsible party to the public agency for the permit application under appeal. For purposes of this section, “good cause” shall have the same meaning as defined in subdivision (g) of Section 15376 of the Government Code.

(c) The determination of the office on an appeal shall be based only on procedural violations, including, but not limited to, the exceeding of time limits, not on any nonprocedural matter with regard to the repair or maintenance project permit, or permit application, or the consolidated permit, or consolidated permit application.

(d) In cases of a violation of time limits set pursuant to paragraph (4) of subdivision (a) of Section 57053.1, the determination of the office to order a reimbursement of any application fee pursuant to the regulations adopted pursuant to subdivision (a) shall only be applicable to the consolidated permit

1 agency or to the participating permit agencies that are in violation
2 of the time limits without showing good cause.

3 (e) An appeal taken pursuant to this section shall be only for
4 violations of the time limits set pursuant to paragraph (4) of
5 subdivision (a) of Section 57053.1.

6 ~~SEC. 46. Section 10115.5 of the Public Contract Code is~~
7 ~~repealed.~~

8 ~~SEC. 47.~~

9 SEC. 72. Section 71030 of the Public Resources Code is
10 amended to read:

11 71030. (a) On or before December 31, 1994, the secretary
12 shall adopt regulations establishing an expedited appeals process
13 by which a petitioner or applicant may appeal any failure by an
14 environmental agency to take timely action on the issuance or
15 denial of an environmental permit in accordance with the time
16 limits established pursuant to Section 71022 or Section 25199.6 of
17 the Health and Safety Code.

18 (b) If the secretary finds that the time limits under appeal have
19 been violated without good cause, the secretary shall establish a
20 date certain by which the environmental agency shall act on the
21 permit application with adequate provision for the requirements of
22 subparagraphs (A) to (C), inclusive, of paragraph (4) of
23 subdivision (a) of Section 71022, and provide for the full
24 reimbursement of any filing or permit processing fees paid by the
25 applicant to the environmental agency for the permit application
26 under appeal. For purposes of this section, "good cause" shall
27 have the same meaning as defined in subdivision (g) of Section
28 15376 of the Government Code.

29 (c) The determination of the secretary on an appeal shall be
30 based only on procedural violations, including, but not limited to,
31 the exceeding of time limits, not on any nonprocedural matter with
32 regard to the environmental permit application or the
33 environmental permit.

34 (d) In cases of a violation of time limits set pursuant to Section
35 71022, the determination of the secretary to order a reimbursement
36 of any application filing fee pursuant to the regulations adopted
37 pursuant to subdivision (a) shall only be applicable to the
38 consolidated permit agency or to the participating permit agencies
39 that are in violation of the time limits without showing good cause.

1 (e) Notwithstanding any other provision of this section, an
2 appeal pursuant to subdivision (a) shall be only for violations of
3 the time limits established pursuant to Section 71022 for those
4 environmental agencies described in subdivisions (c) and (h) of
5 Section 71011.

6 *SEC. 73. No reimbursement is required by this act pursuant*
7 *to Section 6 of Article XIII B of the California Constitution*
8 *because the only costs that may be incurred by a local agency or*
9 *school district will be incurred because this act creates a new crime*
10 *or infraction, eliminates a crime or infraction, or changes the*
11 *penalty for a crime or infraction, within the meaning of Section*
12 *17556 of the Government Code, or changes the definition of a*
13 *crime within the meaning of Section 6 of Article XIII B of the*
14 *California Constitution.*

